

§ 120.810

13 CFR Ch. I (1–1–10 Edition)

Underwriter is an entity approved by SBA to form Debenture Pools and arrange for the sale of Certificates.

[61 FR 3235, Jan. 31, 1996, as amended at 64 FR 2118, Jan. 13, 1999; 65 FR 42632, July 11, 2000; 68 FR 57980, Oct. 7, 2003]

CERTIFICATION PROCEDURES TO BECOME A CDC

§ 120.810 Applications for certification as a CDC.

(a) An applicant for certification as a CDC must apply to the SBA District Office serving the jurisdiction in which the applicant has or proposes to locate its headquarters (see §101.103 of this chapter).

(b) The applicant must apply for an Area of Operations. The applicant's proposed Area of Operations must include the entire State in which the applicant is incorporated, and may include Local Economic Areas. An applicant may not apply to cover an area as a Multi-State CDC.

(c) The applicant must demonstrate that it satisfies the CDC certification and operational requirements in §§120.820, and 120.822 through 120.824. The applicant also must include an operating budget, approved by the applicant's Board of Directors, which demonstrates the required financial ability (as described in §120.825), and a plan to meet CDC operational requirements (without specializing in a particular industry) in §§ 120.821, and 120.826 through 120.830.

(d) The District Office will forward the application and its recommendation to the D/FA, who will make the final decision. SBA will notify the CDC in writing of its decision, and, if the petition is declined, the reasons for the decision.

[68 FR 57980, Oct. 7, 2003]

§ 120.812 Probationary period for newly certified CDCs.

(a) Newly certified CDCs will be on probation for a period of two years from the date of certification, at the end of which the CDC must petition the Lead SBA Office for:

- (1) Permanent CDC status; or
- (2) A single, one-year extension of probation.

(b) SBA will consider the failure to file a petition before the end of the probationary period as a withdrawal from the 504 program. If the CDC elects withdrawal, SBA will direct the CDC to transfer all funded and/or approved loans to another CDC, SBA, or another servicer approved by SBA.

(c) The Lead SBA Office will send the petition and its recommendation to the D/FA, who will make the final decision. SBA will determine permanent CDC status or an extension of probation, in part, based upon the CDC's compliance with the certification and operational requirements in §§120.820 through 120.830. To be considered for permanent CDC status or an extension of probation, the CDC must have satisfactory SBA performance, as determined by SBA in its discretion. The CDC's Risk Rating, among other factors, will be considered in determining satisfactory SBA performance. Other factors may include, but are not limited to, on-site review/examination assessments, historical performance measures (like default rate, purchase rate and loss rate), loan volume to the extent that it impacts performance measures, and other performance related measurements and information (such as contribution toward SBA mission).

(d) SBA will notify the CDC in writing of its decision, and, if the petition is declined, the reasons for the decision.

[68 FR 57980, Oct. 7, 2003, as amended at 73 FR 75517, Dec. 11, 2008]

REQUIREMENTS FOR CDC CERTIFICATION AND OPERATION

§ 120.820 CDC non-profit status and good standing.

A CDC must be a non-profit corporation, except that for-profit CDCs certified by SBA prior to January 1, 1987 may retain their certifications. An SBIC may not become a CDC. A CDC must be in good standing based upon the following criteria:

(a) In good standing in the State in which the CDC is incorporated and any other State in which the CDC conducts business.

(b) In compliance with all laws, including taxation requirements, in the State in which the CDC is incorporated